

Notice of Allowability	Application No.	Applicant(s)	
	10/606,407	LAUTENBACH, SCOTT D.	
	Examiner	Art Unit	
	Sharon Kennedy	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to application filed June 25, 2003.
2. ☒ The allowed claim(s) is/are 1-16.
3. ☒ The drawings filed on June 25, 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>04/30/2004</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION***Allowable Subject Matter***

Claims 1-16 are allowed.

The following is an examiner's statement of reasons for allowance: The ratio of the piston length to the total diameter is not shown or suggested in the prior art, in combination with the other disclosed elements. The piston of applicant's figure 2 is more accurately drawn to scale, while that of figure 1 is not. The majority of the prior art shows a piston appearing similar to applicant's figure 1. The closest prior art pistons were found in the patent to Linkwitz et al., US 5,318,558, the patent application to Peterson et al., 2003/0114837 A1 (figure 9, piston 146), and the patent to Chen et al., US 6,287,295 (figure 20, piston 974). Even if MPEP 2125 was ignored, which advises that "proportions of features in a drawing are not evidence of actual proportions when drawings are not to scale", the prior art still does not teach the claimed dimensions. None of the prior art specifies the size of the pistons, so the examiner has measured them as they appear with a ruler. Chen shows a piston length to total diameter ration of, at best, 0.93:1. Peterson shows the ratio to be 0.74:1. Linkwitz shows a ratio of 0.8:1. The only prior art that shows a similar ratio is Peery, US 5,985,305, figure 3. The length to total diameter is 1.16:1. However, figure 3 is not a piston, the piston is shown as reference numeral 16, figure 1, which is undescribed. In view that the vast majority of the pistons in this art have a piston diameter which greatly exceeds the length, the examiner cannot find any motivation to modify these pistons to arrive at applicant's invention. Further, the general finding that changes in size, shape, are *prima facie*

obvious is adequately rebutted by applicant's specification. See the published application, paragraphs [0057-0058]. Accordingly, the claims are allowed.

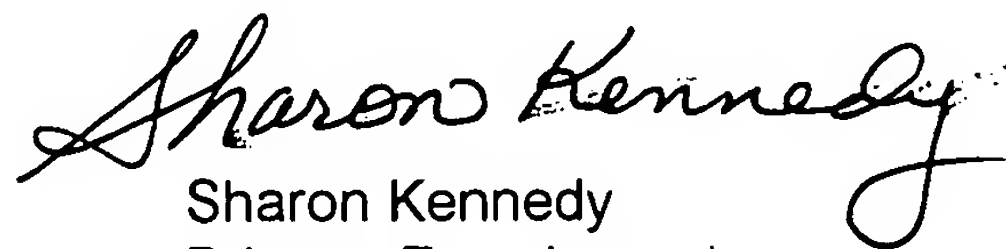
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571/272-4955.

Information regarding the status of an application may be obtained by going to www.uspto.gov, clicking on "Status &IFW", entering the application number, and then clicking on one of the tabs to retrieve the appropriate information.


Sharon Kennedy
Primary Examiner
Art Unit 3762

Sek